

Town of North Andover
ZONING BOARD OF APPEALS

Approved
Jan 8, 2013

Albert P. Manzi III, Esq. Chairman
Ellen P. McIntyre, Vice-Chairman
Richard J. Byers, Esq. Clerk
D. Paul Koch Jr. Esq.
Allan Cuscia



Associate Member
Michael P. Liporto
Deney Morganthal
Doug Ludgin
Zoning Enforcement Officer
Gerald A. Brown

DRAFT MINUTES

Tuesday, December 11, 2012 at 7:30 PM
Town Hall 120 Main Street, North Andover, Massachusetts

Members present: Albert Manzi III, Esq., Ellen McIntyre, Richard Byers, D. Paul Koch Jr., Esq. and Allan Cuscia

Associate Member: Doug Ludgin

Also in attendance: Zoning Enforcement Officer: Gerald Brown

Excused absence: Michael Liporto and Deney Morganthal

Manzi called the meeting to order at 7:35

Pledge of Allegiance

Acceptance of Minutes for November 13, 2012

McIntyre made the motion to approve the November 13, 2012 Minutes

Koch Second the motion.

Those voting in favor to approve the minutes were Manzi, McIntyre, Byers, Koch and Cuscia.

5-0

Committee Report Merrimack Valley Planning Commission Report

Manzi stated that Byers is the Chairman of the MVPC and he will give him the floor to talk about this committee.

Byers stated that in the Board's packet, under "Miscellaneous Correspondence" is a letter from Dennis DiZoglio (Executive Director of MVPC) regarding "Citizen Planner Training Program" and courses made available by the MVPC and how they are offered to various boards and their members in the Merrimack Valley area.

Byers encouraged the new Board members, to take advantage of these courses. Manzi spoke up and thought it would be good for all the board members to take advantage of these courses. Ludgin stated that he has already signed up for all four (4) classes.

Continued Public Hearing

Variance GB-Zoning District, William Yameen, Angus Realty Corp, 1077 Osgood Street (Map 35, Parcel 27)

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A signed and time stamped form from the applicant's attorney, Atty. Mathew Caffrey requested to continue this Public Hearing until Jan 8, 2013. Manzi mentioned that a workshop has been set up (hopefully) for next week regarding this project.
(McIntyre stepped out of the meeting)

Byers made a motion to Grant the continuance until January 8, 2013
Koch second the motion for the continuance
All in favor to continue this hearing until January 8, 2013: Manzi, Byers, Koch and Cuscia.
4-0

Manzi requested a short recess, since McIntyre had to step out for a few minutes.
When McIntyre returned Manzi called the meeting back to order at 7:44

New Public Hearing

Variance R-1, 100 Dales Street (Map 37.B Parcel 9) Joseph O'Connell

Byers open the hearing.

Phil Christiansen, architect for the applicant walked up to the podium and stated what his client was requesting.

Joseph O'Connell is requesting to divide the existing parcel of land he owns into two lots, but seeks relief from frontage requirements in an R-1 Zoning District. He is seeking a Variance and a Finding.

Christiansen talked of the Variance and the Finding to the Board.

Manzi wanted to understand what is being asked of the Board and also asked of the Finding.

Christiansen stated that they went to the Planning Board first for the division of the lot into two lots.

Christiansen stated that the two (2) lots will not be approved until the ZBA approves it.

The Finding is that the relief that his client seeks will not be detrimental to that Zoning District or to the neighborhood.

McIntyre had Christiansen explain why they went to the Planning Board first. Christiansen answered that they had to show the proposed split of this lot first to Planning Board.

Christiansen proceeded with his presentation and stated that his client has lived here since 1977 and pointed to the location that O'Connell's home is situated on the plan. His lot is 4.2 acres and O'Connell wants to create two (2), two (2) acre lots. The problem is that his client does not have enough frontage for each lot. They do need a variance for frontage on both lots. The hardship is his lot and shape.

Christiansen submitted an 8.5 x 11 paper showing the other lots in the neighborhood.

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Christiansen talked of the first proposal that was discussed months ago with Planning, that plan was shown (but not proposed) to the Board of Appeals. Christiansen stated if they went with this plan then they would not need to go in front of the Board of Appeals for a Variance to split the lot in two.

Manzi asked of topography of the lot. O'Connell responded to the question on topography, stating that there was just a mild grade to the land.

Christiansen pointed to the lot that the Town of North Andover owns nearby.

Koch asked of the homes in the area and also asked of the lot sizes, then asked where O'Connell's home was located on his lot.

Ludgin asked of where the house placements on the proposed two (2) lots would be. Christiansen stated that the tendency is usually to place the houses closer to the front rather than further back because of the cost to bring in utilities and also the cost of putting in a driveway. Also Christiansen reminded the Board of the wetlands on the back part of the property.

McIntyre asked if the densely populated trees on the lot would be cut down. Christiansen responded that it will be regulated by the Planning Board and most likely it will be minimal.

Byers stated by creating these lots it will make them nonconforming lots and then asked if they would need to come back to the ZBA for any variances when they have plans for the homes to be constructed on the lot. Brown stated as long as they meet the required setbacks, they will not have to come back to the ZBA.

Manzi asked if they have any plans (regarding the lots in question), showing the houses proposed, driveway, etc. Christiansen stated that he does have something in his office.

Manzi asked if any abutters had questions on this project.

Dinnelle Bere, of 40 Berrington Place stated that it pains her to object, since she is a neighbor of Mr. O'Connell. Bere asked questions in regards to width of the lots and talked of her concern. She pointed to her property and stated if they cleared trees it would impact her privacy and the rest of the neighborhood. She also pointed out where she thought wetlands were located on the lot.

Christiansen responded to Bere's question on the width and stated that lot 2 will be 120 feet in width, and lot 1 would be 100 feet in width.

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Bere also talked of the surrounding neighborhood and that she also had her concerns if they divided the lot and eventually constructed homes in the future. Bere was also afraid of the drainage and water issues that may occur on her property, along with her privacy issues.

Bryan Bendig, located at 59 Berrington Place stated that he shares the same concern as Bere. He was concerned with the change and how that would impact the neighborhood. Bendig stated that he would like to see where these homes would be placed on these lots. Bendig talked of his privacy and what would be visible to him, once homes are built on the lots.

Cuscia asked him to show where his home was located on the map.

Bendig also talked of the topography, the stone wall at the edge of his property and also the drop off. Bendig was also concerned and stated that he did not want to stare at someone else's front yard if new homes were built on these lots.

McIntyre and Manzi asked some of the abutters if they would like the other plan that was originally submitted to the Planning Board better, McIntyre stated that legally by right they could do that plan without coming in front of the ZBA for a variance.

The abutters did not seem to like either of the plans.

Jeff Stevens, an abutter who lives at 196 Marbleridge Road had questions and concerns in regards to the Variance and to see how the lots would be divided, and also asked what size the homes would be and where they would be placed. Cuscia asked him to point out where his home was located on the map. Stevens stated that it just may be a nice enhancement to the neighborhood.

Nanette Rutter, located at 45 Berrington Place had her concerns with the narrow road and having two additional homes be built. Rutter explained her concerns that the road may be tight and narrow and how two additional homes may affect the traffic flow and influence the trees and wildlife in the area such as the deer and beavers in the area.

Cuscia corrected Rutter and stated it will only be one additional home, since one home already exists.

Byers asked Christiansen if the Planning Board had been the ones to request this newer plan, because it was a better plan than the first plan presented. Byers stated that sometimes it does make for a better looking project or design for the neighborhood when a variance is requested or needed for a proposed project.

Christiansen stated yes, that the Planning Board wanted to see another plan (a better plan) other than the first plan that was presented months ago.

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Christiansen, walked up to the podium to address some of the neighbor's concerns, he stated the Mr. O'Connell has lived in this area for many years, way before Berrington Place was ever built, and he never expressed any objections or issues with his privacy, or with trees being taken down, and changes that happened in the area where he lived during the construction of Berrington Place.

The Board agreed that they would like to see a 'Site Plan' of where the homes and driveway would be located, along with (if any) conservation and watershed issues located on the lot. It would also show topography, buffer zone lines and discharge areas. It would answer many questions of why and where the homes would be located on each of the lots.

Christiansen stated that they still need to go in front of the Planning Board, when they go forward with construction because it is in the Watershed protection District.

Byers made a motion to close the hearing for January 8th 2013.

Cuscia second the motion to close the hearing.

All in favor to close this hearing: Manzi, McIntyre, Byers, Koch and Cuscia.

5-0

Christiansen signed the waive form and returned it back over to the Zoning assistant.

Miscellaneous Correspondence

Manzi briefly went over the letters submitted into the board's packets. MVPC letter had been discussed earlier in the meeting.

A letter was submitted from MassHousing, dated December 3, 2012 for Eric Loth, signed by Thomas R. Gleason, Executive Director. The letter was regarding the Riding Academy Preserve (16 Berry Street), Project eligibility (site approval) Application.

Cuscia made a motion to adjourn

Byers second the motion to adjourn

Those voting in favor to adjourn were Manzi, McIntyre, Byers, Koch, and Cuscia.

All were in favor, 5-0.

Adjournment: 8:55